

EXHIBIT 16

10/7/2024

VirtaMove Corp. v. Amazon.com, Inc., et al.

Paul O'Leary

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION

VIRTAMOVE, CORP.,)
Plaintiff,)
Case No.)
v) 7:24-CV-00030-DC-DTG
AMAZON.COM, INC.; AMAZON.COM)
SERVICES LLC; AND AMAZON WEB)
SERVICES, INC.,)
Defendants.)
)

VIDEOTAPED DEPOSITION OF PAUL O'LEARY
APPEARING REMOTELY
October 7, 2024
5:28 p.m.

Reported by: Eileen Mulvenna, CSR/RMR/CRR/RDR

DIGITAL EVIDENCE GROUP
1730 M Street, NW, Suite 812
Washington, D.C. 20036
(202) 232-0646

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1 THE VIDEOGRAPHER: We are on the
2 record.

3 This is the remote video deposition of
4 Paul O'Leary in the matter of Verta
5 Corporation versus Amazon.Com, Incorporated,
6 et al., filed in the United States District
7 Court for the Western District of Texas,
8 Midland/Odessa Division.

9 My name is Billy Fahnert. I am the
10 video technician today. The court reporter
11 is Eileen Mulvenna. We both represent
12 Digital Evidence Group.

13 Today's date is October 7, 2024. The
14 time is 5:28 p.m., Eastern Daylight Time.

15 All parties have stipulated to the
16 witness being sworn in remotely.

17 Will counsel please identify
18 yourselves for the record and then the
19 witness will be sworn in.

20 MR. ANAPOL: Jeremy Anapol, Knobbe
21 Martens on behalf of defendants.

22 MR. TONG: Peter Tong from Russ August

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1 Kabat on behalf of VirtaMove Corporation and
2 also representing the witness.

3 PAUL O'LEARY,

4 having been duly sworn by Eileen Mulvenna,

5 a Notary Public of the State of New York,

6 was examined and testified as follows:

7 EXAMINATION

8 BY MR. ANAPOL:

9 Q. Good evening, Mr. O'Leary.

10 A. Good evening.

11 Q. You understand that you're under oath
12 just as if you were in a courtroom and so you're
13 obligated by law to tell the truth in all of your
14 answers; correct?

15 A. Yes, I do.

16 Q. Please state your full name for the
17 record.

18 A. My full name is Paul Robert O'Leary.

19 Q. And you are not a VirtaMove employee;
20 correct?

21 A. That is correct, I'm not a VirtaMove
22 employee.

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1 signature that Midland, Texas is far more
2 convenient -- or far less inconvenient for me
3 than going to Northern California. That's
4 all I believe we're talking about today.

5 BY MR. ANAPOL:

6 Q. I'm asking you, are you willing to go
7 to Northern California if the trial for this case is
8 in Northern California and Russ August asks you to
9 go?

10 MR. TONG: Objection, form, asked and
11 answered.

12 THE WITNESS: I'll come back to my
13 previous answer. That's not what I believe
14 we're here -- we're here to go through the --

15 BY MR. ANAPOL:

16 Q. Mr. O'Leary, I don't --

17 A. -- declaration.

18 Q. I don't need your --

19 MR. TONG: Jeremy --

20 Q. -- legal understanding -- I don't need
21 your legal understanding of what we're here to
22 discuss. If Mr. Tong believes I'm going outside the

1 scope of what we're permitted to discuss, he can
2 call Judge Gilliam who will stop me; but I'm
3 entitled to cross-examine you on your declaration
4 which means to probe how seriously the court should
5 take what you're saying here. Okay? So listen
6 carefully to my question and I would like an answer
7 to this question.

8 If the trial for this case is in
9 Northern California and Russ August asks you to go
10 to trial, would you go?

11 MR. TONG: Objection to form, asked
12 and answered. And also, the witness was cut
13 off by Mr. Anapol interrupting the answer.

14 BY MR. ANAPOL:

15 Q. Go ahead, Mr. O'Leary.

16 A. I would have to take it under
17 consideration, and I can't answer that question for
18 you right now because the question hasn't been
19 asked.

20 Q. So you would consider going to
21 Northern California, but you're not willing --

22 A. No --

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1 Q. -- to commit right now?

2 A. -- I would say -- I said I would have
3 to consider -- I would say I would have to take the
4 question being asked under consideration. I making
5 no statement right now about how I potentially would
6 or wouldn't answer that question.

7 Q. So you're not willing to take a
8 position right now on whether you would or would not
9 be willing to go to Northern California if Russ
10 August asks you to do it for this case?

11 A. Yes. I would have to -- I would make
12 that decision at the time should those circumstances
13 happen, but I'm not willing to make a decision right
14 now.

15 Q. And is there anything Russ August
16 would have to do to convince you to go to Northern
17 California?

18 MR. TONG: Objection, form.

19 THE WITNESS: I believe -- I think I
20 already answered that I wouldn't -- I would
21 have to consider the question at the time it
22 was asked if it was asked. But right now, I

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1 can't tell you how I would answer the
2 question. I would have to give it
3 consideration at the time.

4 BY MR. ANAPOL:

5 Q. And -- but you're willing to say right
6 now that you would go to Midland?

7 A. Yes, I'm willing to say that right
8 now. That's what it says in the -- that is more --
9 that is less inconvenient for me.

10 Q. Because of what?

11 A. Because of the distance that I have to
12 travel.

13 Q. But we established earlier that you
14 cannot fly directly from your home in Canada to
15 Midland; correct?

16 A. Yes. You established that correctly,
17 yes. However --

18 Q. You don't know how long it would take
19 to actually get to Midland from your home; correct?

20 MR. TONG: Objection,
21 mischaracterizes. And also, the question
22 interrupted the answer.

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1 STATE OF NEW YORK)

2 ss:

3 COUNTY OF WESTCHESTER)

4 I, EILEEN MULVENNA, CSR/RMR/CRR, a
5 Certified Court Reporter, Registered Merit Reporter,
6 Certified Realtime Reporter, and Notary Public in
7 and for the State of New York, do hereby certify:

8 That I reported the taking of the
9 deposition of the witness, PAUL O'LEARY,
commencing on the 7th day of October, 2024, at the
10 hour of 5:28 p.m.

That prior to being examined, the witness
11 was duly sworn by me to testify to the truth, the
whole truth, and nothing but the truth.

12 That I thereafter transcribed my said
shorthand notes into typewriting and that the
13 typewritten transcript of said deposition is a
complete, true and accurate transcription of my
14 said shorthand notes taken down at said time, and
that a request has been made to review the
15 transcript.

I further certify that I am not a relative
16 or employee of an attorney or counsel of any of the
parties, nor a relative or employee of any attorney
17 or counsel involved in said action, nor a person
financially interested in the action.

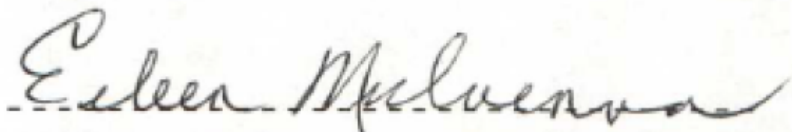
18 IN WITNESS WHEREOF, I have hereunto
set my signature this 9th day of October, 2024.

19

20

21

22



EILEEN MULVENNA, CSR/RMR/CRR/RDR